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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/724,902	11/28/2000	Kenneth H. Abbott	294438002US1	7814

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EXAMINER
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VU, VIET DUY

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/724,902

Applicant(s)

ABBOTT ET AL.

Examiner

Viet Vu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-112 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19,30-35 and 95-112 is/are allowed.
- 6) ☒ Claim(s) 8-15,17,18,20-23,26-29 and 36-94 is/are rejected.
- 7) ☒ Claim(s) 16 and 24-25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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**Non-Art Rejections:**

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 54, 56, 75, 83 and 93 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 54, 56, 75, 83 and 93 are directed to a computer program that is not being tangibly embodied in the manner to be executable by a computer. A program embodied on an intangible computer-readable medium such as signal or transmission medium is routinely held as non-statutory.

It is suggested that claims 54, 56, 75, 83 and 93 be revised to explicitly recite a computer-readable memory instead of computer-readable medium or transmission medium for storing the program instructions.

**Art rejection:**

3. The text of 35 USC 103(a) not cited here can be found in the previous office action.

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4. Claims 8-15, 17-18, 20-23, 26-29 and 36-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atarius et al, U.S. pat. No. 6,526,035.

Per claims 8, 15 and 17, Atarius discloses a system and method for providing information to a mobile device comprising:

a) receiving from first source a signal indicative of a current ability to supply data signals to the client (see col 6, lines 9-19);

b) after receiving an indication from a client for the data signals, supplying to the client data signals from the first source (col 6, lines 50-57);

c) receiving from second source a signal indicative of a current ability to supply data signals to the client (see col 6, lines 9-19);

d) after receiving an indication from a client for the data signals, supplying to the client data signals from the first source and the second source, i.e., combining signals from the first and second sources (col 3, lines 5-8);

e) receiving from first source a signal indicative of a current inability to supply data signals to the client, i.e., faded/weaken signals;

f) after receiving an indication from a client for the data signals, determining that the first source is currently unable

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to supply data signals to the client and in response supplying to the client data signals from the second source, i.e., switching from the first source to the second source (see col 6, lines 58-67).

Atarius does not explicitly show a client request to receive the data. An official notice is taken that some data are only provided the client upon request, e.g., pull contents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to realize such client request of data in practicing Atarius invention because it would have enabled the system to properly deliver requested data to the client.

Per claims 9-10, 12-14, 18 and 20-22, it is noted that signals are used to deliver any known types of data to client including descriptive information and timed information regarding the environment, network and/or user computer.

Per claim 11, Atarius teaches measuring quality of the receive signals that is indicative of a likelihood of reliability or accuracy of the receive signals (see col 6, lines 64-67).

Per claims 23, 26-29, 40-50 and 52, Atarius' teachings encompass claim limitations.

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Per claims 36-39, 51 and 53, Atarius does not explicitly teach a login/authenticating step. An official notice is taken that a login/authenticating step to verify an authorized user is commonly used in the art. It would have been obvious to apply such login/authenticating step in Atarius because it would have enabled the system to verify an authorized user for a communication session.

Claims 54-94 are similar in scope as that of claims 8-15, 17-18, 20-23, 26-29 and 36-53 and hence are rejected for the same rationale set forth above.

**Allowable Subject Matter:**

5. Claims 19, 30-35 and 95-112 are allowed over prior art of record.

6. Claims 16 and 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Response to Arguments:**

7. Applicant's arguments filed 7/3/06 are moot in view of new grounds of rejection set forth above. Particularly, the newly

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cited reference, Atarius, now teaches monitoring available sources and selecting new a source for getting better and more reliable signals as the mobile user changes his position.

**Conclusion:**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIET D. VU  
PRIMARY EXAMINER

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8/25/06